

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**UNITED STATES OF AMERICA**

**Plaintiff,**

**V.**

**DANIEL GREEN, L.W.G. CO., INC. f/k/a  
GREEN INDUSTRIES INC., THE ESTATE  
OF MAURICE GREEN, DANIEL GREEN  
IN HIS CAPACITY AS THE PERSONAL  
REPRESENTATIVE OF THE ESTATE  
OF MAURICE GREEN, and HARD SURFACE  
TECHNOLOGY INC.,**

## Defendants

**and**

**SAUNDRA GREEN, wife of  
DEFENDANT DANIEL GREEN**

## Rule 19 Defendant

**CASE NO. C-1-00-637**

**DISTRICT JUDGE MICHAEL  
WATSON**

\* \* \* \* \*

**JOINT STATUS REPORT OF PARTIES**

\* \* \* \* \*

Pursuant to the Court's December 16, 2004 Order for a Joint Status Report regarding the settlement of this matter, the parties state as follows:

As stated in the Parties' prior joint status report, in this action the United States alleges that Defendants are jointly and severally liable under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, for costs incurred by the United States responding to releases and threatened releases of hazardous substances at or from a facility located in Sharonville, Ohio. In addition, the United States has alleged fraudulent transfer claims under the Federal Debt Collection Procedure Act ("FDCPA"), 28 U.S.C. § 3001 *et seq.*, against third party defendant Saundra Green. On February 19, 2004,

the United States filed a Motion for Leave to File Third Amended Complaint which would also add fraudulent transfer claims against Omni Industrial Properties, Inc. ("Omni") relating to Defendant LWG's transfer of real property from to Omni in 1994. That motion has been fully briefed and is currently pending with the Court.

By Case Management Order, litigation of this action was segregated into three consecutive phases: Phase I (Liability), Phase II (Costs), and Phase III (Assets). By Order dated July 20, 2004, the Court ruled on various party motions for summary judgment relating to liability thus resolving much of Phase I. In that ruling, the Court: (1) dismissed all claims against Defendant Hard Surface Technology, Inc.; (2) refused to grant summary judgment in favor of or against Rule 19 Defendant Sandra Green, but held that the FDCPA's statute of limitations applied, thereby precluding the United States from pursuing its claims against Sandra Green that were based on certain transfers alleged to have occurred in 1990; (3) granted the United States' motion for summary judgment against the Defendant LWG Co., Inc.; (4) refused to grant summary judgment in favor of or against Defendant Daniel Green; and (5) ordered Defendant Estate of Maurice Green to show cause why summary judgment should not be entered against it for failing to respond to the United States' motion for summary judgment. The Estate filed a Response on August 9, 2004.

After the Court's July 20, 2004 ruling regarding liability, the parties entered settlement negotiations. During those negotiations, the United States has made two offers of settlement that, if accepted by the remaining Defendants, would dismiss this action in total: (1) a settlement offer for the resolution of the United States' claims against all remaining Defendants with the exception of LWG; and (2) a settlement offer for the resolution of the United States' claim

against LWG and its related potential fraudulent transfer claim against Omni which is the subject of the United States' motion for leave to amend.

Although the parties are close to reaching an agreement that would resolve all of the United States' claims relating to all remaining Defendants other than LWG, Omni and the United States remain far apart in their negotiations relative to the settlement of any potential fraudulent transfer claim the United States may have against Omni, impeding the overall settlement negotiations between the parties. Defendants have opposed the United States' motion on the grounds that it is barred by the statute of limitations set forth in the FDCPA. The United States disagrees and maintains that the claim is not time-barred. The parties submit that a Court ruling on the United States' pending Motion for Leave to File Third Amended Complaint adding fraudulent transfer claims against Omni may provide the parties with guidance regarding the merit of the United States' claim against Omni and may help further global settlement negotiations in this action. The United States' Motion for Leave to Amend has been fully briefed by the parties and stands submitted to the Court.

In summary, the parties state that although settlement negotiations are actively ongoing, as of the date of this status report, no agreement for settlement has been reached between the parties.

Respectfully Submitted,

s/Jeffrey A. Spector  
W. Benjamin Fisherow  
Deputy Chief  
Jeffrey A. Spector  
Trial Attorney  
Environmental Enforcement Section  
Environmental and Natural Resources Division  
U.S. Department of Justice  
Ben Franklin Station,  
P.O. Box 7611  
Washington, DC 20004

Gregory G. Lockhart  
United States Attorney  
Southern District of Ohio  
Gerald F. Kaminski  
Deputy Civil Chief  
Office of the United States Attorney  
221 East Fourth Street, Suite 400  
Cincinnati, Ohio 45202

Richard R. Wagner  
Associate Regional Counsel  
U.S. Environmental Protection Agency-Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604  
David J. Schmitt  
Cors & Bassett  
537 E. Pete Rose Way  
#400  
Cincinnati, Ohio 45202

COUNSEL FOR PLAINTIFF UNITED STATES

s/Philip J. Schworer  
Philip J. Schworer (0036982)  
Greenebaum Doll & McDonald PLLC  
2800 Chemed Center  
255 East Fifth Street  
Cincinnati, Ohio 45202-4728

David A. Owen  
Kelly A. Dant  
Greenebaum Doll & McDonald PLLC  
300 W. Vine Street, Suite 1100  
Lexington, Kentucky 40507

COUNSEL FOR DEFENDANTS  
DANIEL GREEN; L.W.G. CO., INC f/k/a GREEN  
INDUSTRIES, INC.; HARD SURFACE  
TECHNOLOGY, INC; AND SAUNDRA GREEN.

s/David J. Schmitt  
David J. Schmitt  
Cors & Bassett  
537 E. Pete Rose Way  
#400  
Cincinnati, Ohio 45202

COUNSEL FOR DEFENDANTS ESTATE OF  
MAURICE GREEN AND DANIEL GREEN IN  
HIS CAPACITY AS THE PERSONAL  
REPRESENTATIVE OF THE ESTATE OF  
MAURICE GREEN

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